

**ASSEMBLY BILL**

**No. 1453**

**Introduced by Assembly Member Koretz  
(Coauthor: Assembly Member Vargas)**

February 23, 2001

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An act to add Sections 22962, 22963, and 22964 to the Business and Professions Code, and to add Article 1.5 (commencing with Sections 104490) to Chapter 1 of Part 3 of Division 103 of the Health and Safety Code, relating to tobacco products.

LEGISLATIVE COUNSEL'S DIGEST

AB 1453, as introduced, Koretz. Tobacco: display and use limitations.

Existing law provides for the establishment of programs relating to tobacco use prevention.

This bill would prohibit any person, firm, or corporation that displays at one or more retail locations any marketing device intended to advertise or promote the sale or consumption of any cigarette or tobacco product, including, but not limited to, shelf signs, window stickers or posters, and coupon dispensers, from placing the marketing device at a level that is lower than 4 feet from the floor, and would impose civil penalties for a violation of that provision.

This bill would also prohibit any person, firm, or corporation from displaying or making available any matches or ashtrays for public use on the premises where smoking is prohibited and if this provision is violated would impose civil penalties for a violation of that provision.

This bill would additionally prohibit smoking a cigarette, cigar, or pipe within 250 feet of any designated area in which children may reasonably be expected to congregate and would make violation of that

prohibition an infraction. This bill, by creating a new infraction, would result in a state-mandated local program.

This bill would also prohibit the distribution of free samples of tobacco products by mail to anyone whose age is not known to be over 18 years.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known as, and may be cited as,  
2 the Children's Protection from Tobacco Act of 2001.

3 SEC. 2. Section 22962 is added to the Business and  
4 Professions Code, to read:

5 22962. (a) Any person, firm, or corporation that displays at  
6 one or more retail locations any marketing device intended to  
7 advertise or promote the sale or consumption of any cigarette or  
8 tobacco product, including, but not limited to, shelf signs, window  
9 stickers or posters, and coupon dispensers, shall not place the  
10 marketing device at a level that is lower than four feet from the  
11 floor.

12 (b) The State Department of Health Services shall assess a civil  
13 penalty for each violation of subdivision (a) according to the  
14 following schedule:

15 (1) A civil penalty of five hundred dollars (\$500) for the first  
16 violation.

17 (2) A civil penalty of seven hundred fifty dollars (\$750) for the  
18 second violation within a five-year period.

19 (3) A civil penalty of one thousand dollars (\$1,000) for the  
20 third or subsequent violation within a five-year period.

21 SEC. 3. Section 22963 is added to the Business and  
22 Professions Code, to read:



1 22963. (a) No person, firm, or corporation shall display or  
2 make available matches or ashtrays, or both, for public use on the  
3 premises where smoking is prohibited under existing state law.

4 (b) The State Department of Health Services shall assess the  
5 civil penalty for each violation of subdivision (a) according to the  
6 following schedule:

7 (1) A civil penalty of two hundred fifty dollars (\$250) for the  
8 first violation.

9 (2) A civil penalty of five hundred dollars (\$500) for the second  
10 violation.

11 (3) A civil penalty of one thousand dollars (\$1,000) for the  
12 third and subsequent violation within a five-year period.

13 SEC. 4. Section 22964 is added to the Business and  
14 Professions Code, to read:

15 22964. (a) No person, firm, or corporation shall provide free  
16 samples of tobacco products by mail to anyone who has not been  
17 previously identified as 18 years of age or older.

18 (b) The State Department of Health Services shall assess the  
19 civil penalty for each violation of subdivision (a) according to the  
20 following schedule:

21 (1) A civil penalty of two hundred dollars (\$250) for the first  
22 violation.

23 (2) A civil penalty of five hundred dollars (\$500) for the second  
24 violation.

25 (3) A civil penalty of one thousand dollars (\$1,000) for the  
26 third and subsequent violation within a five-year period.

27 SEC. 5. Article 1.5 (commencing with Section 104490) is  
28 added to Chapter 1 of Part 3 of Division 103 of the Health and  
29 Safety Code, to read:

30  
31 Article 1.5 Public Area Smoking Prohibitions  
32

33 104490. (a) No person shall smoke a cigarette, cigar, or pipe  
34 within 250 feet of the boundaries of any public area during any  
35 period in which children may reasonably be expected to  
36 congregate at that public area, including, but not limited to, zoos,  
37 parks, playgrounds, fairgrounds, carnivals, athletic fields, and  
38 amusement parks that has been designated by the operator of that  
39 public area as a nonsmoking area.

1 (b) Any person who violates subdivision (a) is guilty of an  
2 infraction and shall be punished by a fine by the following  
3 schedule:

4 (1) One hundred dollars (\$100) for the first violation.

5 (2) Two hundred dollars (\$200) for a second violation.

6 (3) Three hundred dollars (\$300) for a third or subsequent  
7 violation within a five-year period.

8 104491. The following definitions shall govern the  
9 construction of this article, unless the context requires otherwise:

10 (a) “Cigarette” means the same as defined in Section 104556.

11 (b) “Cigar” means the same as defined in Section 104550.

12 SEC. 6. No reimbursement is required by this act pursuant to  
13 Section 6 of Article XIII B of the California Constitution because  
14 the only costs that may be incurred by a local agency or school  
15 district will be incurred because this act creates a new crime or  
16 infraction, eliminates a crime or infraction, or changes the penalty  
17 for a crime or infraction, within the meaning of Section 17556 of  
18 the Government Code, or changes the definition of a crime within  
19 the meaning of Section 6 of Article XIII B of the California  
20 Constitution.

